

AMENDED IN ASSEMBLY FEBRUARY 12, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 74

Introduced by Assembly Member Bowler

December 13, 1996

An act to ~~amend~~ *add Section 1685 to, and to amend and repeal* Sections 13202.3 and 14907 of, the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 74, as amended, Bowler. Vehicles: driver's licenses: controlled substances.

(1) Under existing law, until March 1, 1997, the Department of Motor Vehicles, with specified exceptions, is required to immediately suspend or delay the privilege of any person to drive a motor vehicle for 6 months upon receipt of a duly certified abstract of the record of any court showing that the person has been convicted of any specified controlled substance offense. The department is also required, for each successive offense, to suspend or delay the privilege for an additional 6 months.

Until March 1, 1997, a court that convicted a person of any specified controlled substance offense is required to require all driver's licenses held by the person to be surrendered to the court *except as specified*. The court is also required to transmit a certified abstract of the conviction, together with

any driver's license surrendered, to the department not later than 10 days after the conviction.

Until March 1, 1997, the payment of a \$24 fee is required to be made to the department before a driver's license may be issued, reissued, or returned to a person after the suspension or delay of a person's privilege to operate a motor vehicle pursuant to the above provisions.

~~This bill would delete the repeal date specified above and would thus extend the above provisions indefinitely~~ require any law enforcement officer who arrests a person, or issues a notice to appear to a person, for any violation of the specified controlled substance provisions to inform the person of the driver's license sanctions specified above, either orally or in a written form approved by the Judicial Council. The bill would require the law enforcement officer to follow a specified procedure when providing that information. Because the bill would thereby create new duties for local law enforcement entities, it would impose a state-mandated local program.

The bill would require the Director of Motor Vehicles to determine the date when federal law no longer requires the state to enact legislation requiring the suspension and revocation of driver's licenses for convictions of controlled substance violations. The bill would require the director to notify the Secretary of State of that date, immediately upon making that determination.

The bill would delete the repeal date specified above and would, instead, make the provisions specified above inoperative on October 1, 1999, and would repeal those provisions on January 1, 2000, 6 months after the date specified on the notice to the Secretary of State specified above, whichever occurs first.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(2)

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1685 is added to the Vehicle
2 Code, to read:

3 1685. (a) The director shall determine the date when
4 federal law no longer requires the state to enact
5 legislation requiring the suspension and revocation of
6 driver's licenses for convictions of controlled substance
7 violations.

8 (b) The director shall notify the Secretary of State of
9 the date determined under subdivision (a), immediately
10 upon making that determination.

11 (c) The notice required under subdivision (b) shall
12 state that it is being made pursuant to this section for the
13 purpose of repealing Sections 13202.3 and 14907.

14 SEC. 2. Section 13202.3 of the Vehicle Code is
15 amended to read:

16 13202.3. (a) The department shall immediately
17 suspend or delay the privilege of any person to drive a
18 motor vehicle for six months upon receipt of a duly
19 certified abstract of the record of any court showing the
20 person has been convicted of any controlled substance
21 offense specified in subdivision (c). For each successive
22 offense, the department shall suspend the person's
23 driving privilege for those possessing a license or delay
24 the eligibility for those not in possession of a license at the
25 time of their conviction for an additional six months. This
26 subdivision does not apply if, upon conviction, the court
27 orders the department to suspend, restrict, or revoke the
28 driving privilege as required under Section 13202 or

1 13202.5, if the suspension, restriction, or revocation is for
2 a period of not less than six months.

3 (b) (1) In the absence of compelling circumstances
4 warranting an exception, whenever a court in this state
5 convicts a person of any controlled substance offense
6 specified in subdivision (c), the court in which the
7 conviction occurs shall require all driver's licenses held by
8 the person to be surrendered to the court. The court shall,
9 not later than 10 days after the conviction, transmit to the
10 department a certified abstract of the conviction,
11 together with any driver's license surrendered.

12 (2) *For purposes of this subdivision, the court shall, at*
13 *a minimum, consider compelling circumstances to*
14 *include, but not be limited to, when the court finds that*
15 *a personal or family hardship exists that requires the*
16 *person to have a driver's license for his or her own, or a*
17 *member of his or her family's, employment or medically*
18 *related purposes.*

19 (c) This section applies to convictions involving
20 controlled substances contained in the following
21 provisions:

22 (1) The laws of the United States, each state, territory,
23 or possession of the United States, the District of
24 Columbia, or the Commonwealth of Puerto Rico. For
25 purposes of this subdivision, "conviction" means a
26 conviction of any controlled substance offense prohibited
27 by any federal or state law, or a forfeiture of bail, bond,
28 or other security deposited to secure appearance by a
29 person charged with having committed any controlled
30 substance offense.

31 (2) Division 10 (commencing with Section 11000) of
32 the Health and Safety Code, involving the possession,
33 distribution, manufacture, cultivation, sale, or transfer of
34 any substance or the attempt or conspiracy to possess,
35 distribute, manufacture, cultivate, sell or transfer any of
36 those substances, the possession of which is prohibited
37 under that division.

38 (3) Article 2 (commencing with Section 23152) of
39 Chapter 12 of Division 11.

(d) Suspension or delay of driving privileges pursuant to this section shall be in addition to any penalty imposed upon conviction of any violation specified in subdivision (c), unless the court has ordered suspension, revocation, or restriction as required under Section 13202 or 13202.5.

(e) Any law enforcement officer who arrests a person, or issues a notice to appear to a person, for any violation of the provisions listed in subdivision (c) shall inform the person of the driver's license sanctions required under this section, either orally or in a written form approved by the Judicial Council. If the information required to be provided under this subdivision is provided orally, the officer shall indicate on the arrest report or the notice to appear the time and date that the information was provided. If the information is provided in a written form, the officer shall attach a copy of the written document to the arrest report or notice to appear.

(f) This section shall become inoperative on October 1, 1999, and is repealed as of January 1, 2000, or six months after the date specified in the notice required under subdivision (b) of Section 1685, whichever occurs first.

~~SEC. 2.—~~

SEC. 3. Section 14907 of the Vehicle Code is amended to read:

14907. (a) Notwithstanding any other provision of this code, in lieu of the fees in Section 14904, before a driver's license may be issued, reissued, or returned to a person after the suspension or delay of the person's privilege to operate a motor vehicle pursuant to Section 13202.3, there shall be paid to the department a fee in an amount of twenty-four dollars (\$24) to pay the costs of the administration of these license actions by the department.

(b) This section does not apply to a suspension or revocation that is set aside by the department or a court.

(c) This section shall become inoperative on October 1, 1999, and is repealed as of January 1, 2000, or six months after the date specified in the notice required under subdivision (b) of Section 1685, whichever occurs first.

~~SEC. 3.—~~

1 *SEC. 4. Notwithstanding Section 17610 of the*
2 *Government Code, if the Commission on State Mandates*
3 *determines that this act contains costs mandated by the*
4 *state, reimbursement to local agencies and school*
5 *districts for those costs shall be made pursuant to Part 7*
6 *(commencing with Section 17500) of Division 4 of Title*
7 *2 of the Government Code. If the statewide cost of the*
8 *claim for reimbursement does not exceed one million*
9 *dollars (\$1,000,000), reimbursement shall be made from*
10 *the State Mandates Claims Fund.*

11 *Notwithstanding Section 17580 of the Government*
12 *Code, unless otherwise specified, the provisions of this act*
13 *shall become operative on the same date that the act*
14 *takes effect pursuant to the California Constitution.*

15 *SEC. 5. This act is an urgency statute necessary for the*
16 *immediate preservation of the public peace, health, or*
17 *safety within the meaning of Article IV of the*
18 *Constitution and shall go into immediate effect. The facts*
19 *constituting the necessity are:*

20 *In order to avoid jeopardizing the receipt of federal*
21 *transportation funds, it is necessary that this act take*
22 *effect immediately.*

